

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-1591

United States of America,

Appellee,

v.

William Smith, Jr.,

Appellant.

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Appeal from the United States
District Court for the
Western District of Arkansas.

[UNPUBLISHED]

Submitted: July 16, 2002

Filed: July 22, 2002

Before McMILLIAN, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

William Smith, Jr., pleaded guilty to committing bank robbery and jeopardizing a person's life with a dangerous weapon. See 18 U.S.C. § 2113(a), (d) (2000). The District Court¹ sentenced Smith to seventy-one months of imprisonment and three years of supervised release and ordered him to pay \$12,069 in restitution. On appeal, counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence is excessive. Smith has filed a pro se

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

supplemental brief in which he seems to criticize counsel's performance before the District Court.

Smith's allegedly excessive sentence is unreviewable on appeal because it was imposed within the applicable Guidelines range. See United States v. Woodrum, 959 F.2d 100, 101 (8th Cir. 1992) (per curiam). Smith's ineffective-assistance claim should be brought, if at all, in a 28 U.S.C. § 2255 proceeding. See United States v. Hernandez, 281 F.3d 746, 749 (8th Cir. 2002). Having reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we find that there are no nonfrivolous issues.

Accordingly, we affirm. We also grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.